

REMARKS

In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

The objection to claim 1 is overcome by the above-amendment.

The rejection of claim 1 under 35 U.S.C. §102 as anticipated by Smith et al., Mol. Immunol., 32(17/18):1339-1344(1995) ("Smith") is respectfully traversed.

Smith relates to the investigation of the functions of human CD63 by expression in a rat basophilic leukemia cell line. Using a panel of antibodies against human CD63, it was shown that high levels of granular secretion from the cells could be stimulated by some, but not all, of the antibodies. Smith does not disclose or suggest a method of decreasing HIV entry into cells, let alone a method of decreasing CD63 facilitated HIV entry into macrophage cells. Further, Smith does not disclose or suggest a method which includes exposing the cells to an anti-CD63 antibody in an amount effective to bind the anti-CD63 antibody to CD63 present in the cells whereby the CD63 facilitated HIV entry into the cells is decreased.

It is the position of the U.S. Patent and Trademark Office that the method of Smith is identical to the claimed invention as the effect of preventing HIV entry is an inherent feature of Smith. Applicants respectfully disagree. There is no teaching or suggestion in Smith of a method of decreasing CD63 facilitated HIV entry into macrophage cells susceptible to infection with a strain of HIV. Smith relates exclusively to one particular type of cells, i.e. rat RBL-2H3. There is no teaching or suggestion, inherent or otherwise, that such cells are susceptible to infection with a strain of HIV. Therefore, Smith does not teach, even inherently, the claimed invention. Further, there is no teaching or suggestion in

Smith of administering an anti-CD63 antibody in an amount effective to bind the anti-CD63 antibody to CD63 present in the cells whereby the HIV entry into the cells is decreased. Smith exclusively teaches the stimulation of granular secretion by some antibodies. There is no teaching, inherent or otherwise, of the effective amounts of antibody which would result in decreased HIV entry into the cells.

Accordingly, the rejection is improper and should be withdrawn.

In view of the foregoing, applicants submit that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

June 27, 2005
Date

Karla M. Weyand
Karla M. Weyand
Registration No. 40,223

Rogalskyj & Weyand, LLP
P.O. Box 44
Livonia, New York 14487-0044
Tel: 716-626-5380
Fax: 716-626-5384

I hereby certify that this document is being deposited with the U.S. Postal Service as first class mail on 6/27/05 under 37 CFR 1.8 and is addressed to the Commissioner for Patent, PO Box 1450, Alexandria, VA 22313-1450

Karla M. Weyand
Signature of Person Mailing Correspondence

Karla M. Weyand
Typed Name of Person Mailing Correspondence